

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TRACEY L BROWN, et al.

Case No. 2:21-cv-01182-RFB-DJA

Plaintiffs,

ORDER

v.

ELY STATE PRISON, et al.,

Defendants.

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by two state prisoners. One of the Plaintiffs, Tracey Brown, has filed a motion requesting permission to file an amended complaint. (ECF No. 10.) There is no proposed amended complaint attached to the motion. Pursuant to Nevada Local Rule of Civil Practice 15-1, “the moving party must attach the proposed amended pleading to a motion seeking leave of the court to file an amended pleading.” Nev. Loc. R. 15-1. As such, the Court denies the motion without prejudice.

Furthermore, as the Court previously explained, under Rule 11 of the Federal Rules of Civil Procedure *pro se* litigants must each sign any pleading filed on their behalf, including the complaint. (ECF No. 3 at 2-3.) The Court reiterates that each Plaintiff must sign any pleading filed on his behalf, including any amended complaint.

Plaintiffs must file any motion for leave to file an amended complaint by February 28, 2022. Unless both Plaintiffs sign the proposed amended complaint, the Court will screen the current complaint only. The Court will not accept any amended complaint signed by only one Plaintiff. Alternatively, if Plaintiff Tracey Brown wishes to pursue a new complaint on his own, he may file a motion to be voluntarily dismissed from this case and begin a new action individually.

If Plaintiffs choose to file a proposed amended complaint, they are advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner &*

1 Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was
2 named in the original complaint is irrelevant; an amended pleading supersedes the
3 original”); see also *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding
4 that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims
5 in a subsequent amended complaint to preserve them for appeal). Plaintiffs’ proposed
6 amended complaint must contain all claims, defendants, and factual allegations that
7 Plaintiffs wishes to pursue in this lawsuit. Moreover, Plaintiffs should file the proposed
8 amended complaint on this Court’s approved prisoner civil rights form, and it must be
9 entitled “First Amended Complaint.”

10 For the foregoing reasons, **IT IS ORDERED** that:

11 1. The motion requesting permission to file an amended complaint (ECF No.
12 10) is denied without prejudice. If Plaintiffs wish to file a renewed motion to file an
13 amended complaint, they must attach a proposed amended complaint to their motion.

14 2. If Plaintiffs choose to file a motion to file an amended complaint, they will do
15 so by February 28, 2022.

16 3. The Clerk of the Court will send Tracey Brown and Tony Brown each a copy
17 of this order, the approved form for filing a § 1983 complaint, instructions for the same,
18 and a copy of the original complaint (ECF No. 1-1). If Plaintiffs choose to file a motion to
19 file an amended complaint together with a proposed amended complaint, they should use
20 the approved form and they will write the words “First Amended” above the words “Civil
21 Rights Complaint” in the caption of the proposed amended complaint.

22 4. The Court notes that if Plaintiffs choose to file a motion to file an amended
23 complaint, they must file a single proposed amended complaint, which they have both
24 signed. The Court will not accept any proposed amended complaint signed by only one
25 of the Plaintiffs.

26 DATED this 28th day of December 2021.

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28 UNITED STATES MAGISTRATE JUDGE